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C/O IP DOCKETING DEPARTMENT  
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In re Application of KIM et al  
U.S. Application No.: 10/505,328  
PCT Application No.: PCT/KR02/02033  
Int. Filing Date: 31 October 2002  
Priority Date Claimed: 22 February 2002  
Attorney Docket No.: 02730.0020.PCUS00  
(300602004700)  
For: CONSTRUCTION OF NOVEL STRAINS...

DECISION

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(B)" filed 14 April 2008.

### **BACKGROUND**

On 31 October 2002, applicant filed international application PCT/KR02/02033, which claimed priority of an earlier Korea application filed 22 February 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 28 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 23 August 2004 (22 August 2004 was a Sunday).

On 23 August 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 21 June 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a copy of the sequence listing in computer readable form is required.

On 16 November 2005, the agent of record filed a request to withdraw as attorney and a change of correspondence address.

On 25 November 2005, applicant filed a copy of the sequence listing in computer readable form.

On 21 February 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which identified errors in the copy of the sequence listing in computer readable form filed 25 November 2005.

International application number PCT/KR02/02033 became abandoned as to the United States for failure to timely respond to the Notification of Defective Response.

On 14 April 2008, applicant filed the present petition under 37 CFR 1.137(b).

### DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 31 October 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 August 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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